

I ask unanimous consent to have printed in the RECORD the letter to Secretary Clinton dated July 10, 2009.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, July 10, 2009.

Hon. HILLARY RODHAM CLINTON,
Secretary of State,
Washington, DC.

DEAR SECRETARY CLINTON: We write to you regarding the proposed U.S. accession to the Treaty of Amity and Cooperation in Southeast Asia (TAC). We believe that U.S. accession to the TAC reflects the strong American commitment to the region and to vigorous engagement with the Association of Southeast Asian Nations (ASEAN), both of which we fully support. The U.S. has important foreign policy and economic interests in Southeast Asia which we believe this agreement can further.

There are two important points of clarification, however, that we wish to make as part of the Senate's input in the context of the State Department's congressional consultations. First, we understand that the Department is considering having the United States accede to the TAC in late July as a sole executive agreement, which would not require the advice and consent of the Senate. We note that the title of the agreement refers to the agreement as a "treaty," and we are unaware of any precedent for the United States acceding to an agreement styled as a "treaty" without the advice and consent of the Senate as provided for in Article II, Section 2 of the Constitution. At the same time, we are mindful that other factors apart from the formal name of the agreement could suggest that it is consistent with U.S. practice for the United States to accede to the TAC as an executive agreement. Of particular importance, the agreement is largely limited to general pledges of diplomatic cooperation and would not appear to obligate the United States to take (or refrain from taking) any specific action (with the exception of provisions of Article X which we understand will be the subject of a reservation as discussed below). We also note that the United States did not take part in the negotiations among ASEAN countries leading up to the conclusion of the TAC in 1976, or in the decision to characterize it as a treaty.

In light of these unique considerations, we will not object to the Department's plan to accede to the TAC as an executive agreement. We continue to believe, however, that the use of the term "treaty" in the title of an agreement will generally dictate that Senate advice and consent will be required before the United States may accede to the agreement. In this regard, treatment of the TAC as an executive agreement should not be considered a precedent for treating future agreements entitled "treaties" as sole executive agreements. To ensure our understanding that the process surrounding this agreement is not misinterpreted in the future as a precedent, we will submit this letter into the Congressional Record. We would also request that the State Department include it in the next edition of the Digest of United States Practice in International Law.

Second, Article X of the TAC provides that "[e]ach High Contracting party shall not in any manner or form participate in any activity which shall constitute a threat to the political and economic stability, sovereignty, or territorial integrity of another High Contracting Party." We also note that the U.S. has proposed a reservation to the TAC that states that the TAC, noting in particular Article X, "does not limit actions taken by the United States that it considers necessary to address a threat to its national interests."

We interpret this reservation as ensuring that the TAC does not limit the authority of the U.S. government—either the executive branch or the Congress—to take actions that it considers necessary in pursuit of U.S. national interests in the region or with respect to any individual nation.

We thank you for your close consideration of this matter and for the Department's consultation prior to acceding to the TAC.

Sincerely,

JOHN F. KERRY,
Chairman, Senate
Committee on Foreign Relations.

MITCH MCCONNELL,
Republican Leader
United States Senate.

RICHARD G. LUGAR,
Ranking Member Senate
Committee on Foreign Relations.

EXECUTIVE CALENDAR OBJECTION

Mr. GRASSLEY. Mr. President, I, Senator CHUCK GRASSLEY, intend to object to proceeding to the nomination of George Wheeler Madison to be General Counsel of the Department of the Treasury, Calendar No. 302, and to the nomination of Carmen R. Nazario to be Assistant Secretary for Family Support of the Department of Health and Human Services, Calendar No. 304, dated July 23, 2009, for the following reasons.

My support for the final confirmation of Mr. Madison rests on his continued responsiveness, and the responsiveness of the Treasury Department, to my questions. I am very concerned that the Special Inspector General for the Troubled Asset Relief Program is not getting the cooperation Congress entitled him to from the Treasury Department and that his recommendations are not being seriously considered.

Regarding Ms. Nazario, I still have an outstanding issue regarding the release of key data on States' TANF participation rates that need to be resolved.

AUTOMOBILE DEALER ECONOMIC RIGHTS RESTORATION ACT OF 2009

Mr. ROCKEFELLER. Mr. President, I take this opportunity to discuss the recent decisions by General Motors and Chrysler to eliminate thousands of automobile franchises across America. This is an extremely important issue: GM's and Chrysler's actions have had a negative impact on small businesses, employees, consumers, and communities in every corner of my State, West Virginia.

Although I do not question the automakers' need to restructure their companies and become financially viable, I do have serious concerns about the way they have handled these dealership terminations. Neither company has been fully transparent in explaining why they needed to terminate dealerships or how they decided which ones to eliminate. Neither company has provided dealers with an adequate oppor-

tunity to fully appeal their terminations—in fact, Chrysler has not established an appeals process at all. And though both companies claim that dealers will be fairly compensated for vehicles, parts, and specialty tools, the reports I continue to receive from terminated Chrysler dealers is that they still have hundreds of thousands of dollars in parts and specialty tools and many have received "no response at all" from Chrysler to their "numerous requests for assistance."

I also continue to hear the argument that "this is how things happen in the normal bankruptcy process." But GM's and Chrysler's bankruptcies are anything but normal. How many bankruptcies are funded with billions of taxpayer dollars? How many bankruptcies result in the government obtaining a majority interest in the restructured companies? Under these circumstances, the thousands of small business owners whose franchise agreements have been summarily revoked deserve more from the companies that would not exist but for taxpayer support.

That is why I have been fighting from the beginning to find a better resolution for the thousands of terminated auto dealers throughout this country. And although we have seen improvements on behalf of dealers so far, I must admit that I am thoroughly disappointed that GM and Chrysler have refused to do more. For that reason, I am cosponsoring S. 1304, the Automobile Dealer Economic Rights Restoration Act of 2009.

I fully understand the serious concerns that have been raised about this bill. But the reality is that GM and Chrysler need to understand that they cannot ignore repeated requests by Congress and the American people to treat terminated dealers fairly. It is my hope that by cosponsoring this bill, I can help the automakers better appreciate that very important point and ultimately come to the table. They should work with Congress and the dealers on a reasonable resolution—one that provides dealers with fair compensation and a meaningful opportunity to challenge their terminations. That is what the people of West Virginia and America expect, and that is what the terminated dealers deserve.

35TH ANNIVERSARY OF THE LEGAL SERVICES CORPORATION

Mr. HARKIN. Mr. President, Saturday, July 25, marks the 35th anniversary of the Legal Services Corporation, LSC. In 1974, Congress—with bipartisan support, including that of President Nixon—established LSC to be a major source of funding for civil legal aid in this country. LSC is a private, non-profit corporation, funded by Congress, with the mission to ensure equal access to justice under law for all Americans by providing civil legal assistance to those who otherwise would be unable to afford it. LSC distributes 95 percent of its annual Federal appropriations to